

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Jacelynn Big Day,

PLAINTIFF

v.

Charles Austin,

DEFENDANT.

Case No. 3:20-03941-TLW

Order

This matter is before the Court on Plaintiff Jacelynn Big Day's motion to remand. ECF No. 6. On December 14, 2020, Defendant Charles Austin filed a consent motion to remand. ECF No. 9. For the reasons stated herein, the motions are granted.

I. Factual and Procedural History

On September 27, 2020, Plaintiff filed this case in the Court of Common Pleas of Richland County, South Carolina against Defendant Charles Austin alleging personal injuries as a result of an automobile accident. Compl. ¶ 3-5 (ECF No. 1-1). According to her Complaint, Plaintiff is a citizen and resident of Montana and Defendant is a citizen and resident of South Carolina. Compl. ¶ 1-2.

Defendant subsequently removed the case to federal court based on diversity jurisdiction and pursuant to 28 U.S.C. § 1332(a)(1). ECF No. 1. In doing so, Defendant acknowledged that "[a]t the time of the commencement of this action, and at this time, Defendant was and is a resident of the State of South Carolina." *Id.* at ¶ 4.

Shortly thereafter, Plaintiff filed this motion to remand the case back to state court. ECF No. 6. Plaintiff asserts that remand is appropriate because of the "home state defendant

rule” set forth in 28 U.S.C. § 1441(b)(2) which states, “[a] civil action otherwise removable solely on the basis of the jurisdiction under section 1332(a) of this title may not be removed if any of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.” *Id.* at 1. Plaintiff states that Defendant Charles Austin is a citizen of the State of South Carolina, and therefore, this case may not be removed.

On December 14, 2020, the Defendant responded to Plaintiff’s motion by filing a consent motion to remand stating he “consents remand of this matter to the Court of Common Pleas for Richland County, South Carolina.” ECF No. 9.

II. Discussion and Conclusion

For the reasons set forth in the parties’ motions, the Court concludes that remand is proper. Accordingly, this matter is **REMANDED** to the Richland County Court of Common Pleas pursuant to 28 U.S.C. 1441(b)(2).

IT IS SO ORDERED.

s/ Terry L. Wooten
Terry L. Wooten
Senior United States District Judge

December 15, 2020
Columbia, South Carolina